

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SAUL NAJERA, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION NO. H-06-1003
	§	
M/V CLIPPER LIS, <i>her equipment and</i>	§	
<i>appurtenances, etc.</i> ,	§	
	§	
Defendants.	§	

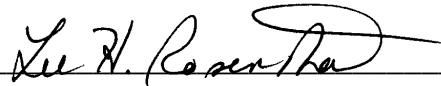
ORDER

The parties in this case have settled all the issues, with one exception. The outstanding issue is the enforceability of a provision in an agreed order directing that part of the funds deposited into the court's registry be used for a Medicare Set Aside account for the injured plaintiff, Saul Najera. The defendants, Colas Rose Ltd., MacGregor Cranes AB, MacGregor Group AB, MacGregor (USA) Inc., and MacGregor (SWE), have joined in a motion to enforce the settlement agreement through a court order requiring a Medicare Set Aside account. (Docket Entry No. 183). The plaintiffs responded, (Docket Entry No. 187), and the defendants jointly replied, (Docket Entry No. 188). The intervenor, American Longshore Mutual Association (ALMA), moved to disburse funds from the court's registry. (Docket Entry No. 181). The plaintiffs responded, (Docket Entry No. 184); the intervenor replied, (Docket Entry No. 185); and the plaintiffs filed a supplemental response, (186). This court had referred the case for pretrial management under 28 U.S.C. § 636(a) and (b) to the magistrate judge, who held a hearing on the motions. Following that hearing, the magistrate judge issued a memorandum recommending that both the motion to enforce the settlement agreement and the motion to disburse the funds be granted.

This court has reviewed the Memorandum and Recommendation of the magistrate judge signed on January 29, 2009. No objections have been filed. This court has made a *de novo* determination of the recommended disposition. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). The court finds the Memorandum and Recommendation should be, and the same is hereby, adopted as the court's Memorandum and Order. Accordingly, the motion to disburse the funds from the court's registry is granted. ALMA is to receive the \$400,000 on deposit with this court as payment for the medical needs and indemnity provided to Saul Najera. The motion to enforce the settlement agreement is also granted. The plaintiffs are ordered to fund the Medicare Set Aside account in the amount of \$176,452, as agreed to in the Amended Agreed Order and in the Release and Indemnity Agreement.

All the issues in this case are now resolved. The parties' settlement moots the recently filed motions, Docket Entry No. 200 and 202, which are denied. No later than March 25, 2009, the parties are to submit a proposed form of final judgment.

SIGNED on March 10, 2009, at Houston, Texas.

A handwritten signature in dark ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge